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December 1, 2020

VIA ELECTRONIC COURT FILING

Honorable Judge Ann M. Donnelly
U.S. District Court in the Eastern District of New
York
225 Cadman Plaza East, Rm. 4G
Brooklyn, NY 11201

Re: *Pozniak v. Shwartsman*, 20-cv-02956-AMD-RML – Petitioner’s Request for
Adjournment

Dear Judge Donnelly:

Our firm represents petitioner Natalia Pozniak (“Petitioner”) in the above-named matter. We write to respectfully request that the Court adjourn the December 14, 2020 trial date to a date in January for the reasons set forth below. This is Petitioner’s first request for an extension of any type in this case.

As Your Honor may recall, the deadline for the parties to submit copies of all pre-marked exhibits to the Court is Wednesday, December 2. The parties are actively engaged in the discovery process. Indeed, the parties have already exchanged certain documents in response to their respective Requests for Production, and both Petitioner and Vladimir Shwartsman (“Respondent”) continue to search for, review, and produce documents responsive to the Requests for Production. Because many of the responsive documents require translation into English, however, it is unlikely that Petitioner will be able to produce all such documents to Respondent by December 2 and therefore unlikely that the parties will be able to meet the December 2 deadline. If the deadline is not extended, we fear that the parties will have to provide the Court with copies of supplemental exhibits closer to the current trial date.

In addition, during the November 19, 2020 status conference (the “Status Conference”), Respondent’s counsel informed the Court that Respondent planned to introduce expert testimony in support of his “grave risk” defense. The Court ordered Respondent to submit that expert report by December 2, 2020. Also during the Status Conference, we stated that we would only introduce our own expert if necessary to rebut the testimony of Respondent’s expert, should Respondent introduce one.¹ Assuming Respondent submits an expert report, our expert will need more time

¹ It is uncertain whether Respondent will submit an expert report on December 2, 2020.



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than the twelve-day period between December 2 and December 14 to prepare and submit a report and prepare for trial. Specifically, that twelve-day period is not enough time for the expert to evaluate the child, our client, and possibly Respondent; review and analyze Respondent's expert report; and prepare an expert report that complies with Fed. R. Civ. P. 26 based on those evaluations.

As such, we respectfully request that the Court adjourn the December 14 trial date to a date in January that fits the Court's schedule, and extend the deadline for the parties to submit copies of all pre-marked exhibits to Court two weeks to Wednesday, December 16, 2020. This is Petitioner's first request for an extension or adjournment in this case, and we do not make this request lightly. We appreciate that the Court maintains a full calendar and had already set aside December 14 for this matter. However, given the amount of time it takes to translate and produce the documents being made available from Israel, we feel this request is justified. Respondent has consented to this request, and the parties are both available on the following dates in January: January 21, 22, 25–29.

Thank you for your consideration of Petitioner's requests.

Respectfully,

/s/ Robert H. Pees

Robert H. Pees

cc: Marcus Nussbaum